App F IX 4

Previous References
Ml 41-47(45,46)

1948-49
Ml)

File No 58-48
Serial Nos 50,51

Later References
Ml 58-48 (76,77)

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

18/EY

Part B for Feb 49

SUBJECT

Disqualification of two Ml Cls of the Chunkama
mana - Town Ml Cl to continue as members

To The D C Tolar At
No L 9684/A 18-2-49
States that their places must be deemed to have become vacant and gives instruction to fill up the vancies

To The Prsdt T Ml Cl Chunkamanu
Means No L 9685/A 18-2-49

KBG

2882/pol

Disqualification of Councillors in the Channapatna Town Mcp—

2882/L — 2783

Letter No 45 C 67/48-49 dt 4-10-48 from the Dy Commr. Kolar dt, forwarding for orders of Govt under Section 12(3) of the Mysore Town Mcpties Act 1933, the records relating to the disqualification of Sri Channa Veerabhadrappa & Srinivasamurthy from continuing as Municipal Councillors of the Channapatna Town Mcpality

1) Submitted for perusal The note of the Dy Comm, Kolar dt, gives in detail the facts of the case The Councillors were declared ineligible to continue as members under Section 12(2)(d) of the Act

2) The Law Section may be consulted ~~on the matter~~ whether the interpretation given to Sec 12(2)(d) of the Town Munities Act is correct

A 11/10

Put 13 wrs

11277/10

LAW DEPARTMENT SECTT GOVT OF MYSORE 19 OCT 1948

3) A May become necessary 14/10/48

Law Secy (C)

4) 18/10

18/10

2783/Cdw

.882/1

Order

5) OL and suit will be
required to make avoidable
~~the~~ person referred
to ~~the~~ interpretation of the term
about ~~the~~ Town P. Act and then
we ~~the~~ final order from
by Govt P.O. no. ~~of~~ ~~the~~ and
also ~~the~~ first return together
with ~~the~~ point specially in the
way also by further affidavit
order 6) Ps please
fix 22/10

MWA
21

Advocates & S.G.
will

for KK,
Advocate

Order

7) Book 41-47 (45+46) bearing on the subject
put up the orders passed by Govt collated by

30/10 8) In the Collection put up a parallel
provision of the Hour Mches Act has
been examined

Put up next 9) This will not help us at all
pl bring up for return

6/11/48

2885 2606 Cur

10) Attempts made to get at precedents have not proved successful & it must also be stated that there are no decided cases in respect of the point raised in this case

11) The D.C. Kurnool has discussed at length the facts as well as the points of law involved in the case in paras 5 of his note. His views appear to be entitled to consideration

12) The file will be sent to the Law Secy with the above note for perusal & suggestions

Rewsey Ram
18/11/48

Law Secy
COIC

16/11/48

5040
15/11

SECRETARIAT DEPARTMENT
16 NOV 1948
GOVT OF

16/11

16/11

LAW BRANCH
SECRETARIAT

12) It is stated that the two petitioners (Municipal Councillors) did not attend the Municipal Council meetings commencing from the 1st February 1948 till 17th June 1948. The point for consideration is whether they vacate their seats under Sec 12(2)(d) of the Town

unicipalities Act

13) Sec 12(2)(d) states that a Councillor who absents himself from the meetings of the unicipal Council during four successive months (except with the leave of the unicipal Council) he shall vacate his office

14) The petitioners contend (the Deputy Commissioner also supports that view) that no ordinary general meeting as contemplated under Sec 27 of the Town unicipalities Act was held during that period and that they cannot be deemed to be absentees when the unicipal Council has failed to observe the law The Deputy Commissioner further contends that the words "four successive months" in Sec 12(2)(d) do not mean the total period of four months, but that it refers to four meetings held in four successive or consecutive months and that as no meetings were held regularly in that period, the petitioners have not committed any default

15) But it is seen from the report of the Deputy Commissioner himself that during the period from 1st February 1948 to 17th June 1948 nearly six meetings (both ordinary and special) have been held and the petitioners have attended none Sec 12(2)(d) does not lay down that the meetings referred to should be ordinary meetings only, and that the meetings should be ordinary general meetings and that the meetings should have been held in every consecutive month It equally well applies to special meetings also (vide also the view taken in the file re 46-47 45-46 placed below)

16) If the petitioners have voluntarily absented themselves from the meetings held during that period, they vacate their seats under Sec 12(2)(d) of the Town unicipalities Act The view of the Deputy Commissioner

2882
L

3606/Cor

Amendment Rl el disqualification re S 12 (2)(d) of Rl

is not correct Unless they have good reasons for absence (such as ~~unless it is involuntary such as detention, etc~~ they ~~were~~ must be deemed to be disqualified under sec 12 (2)(d) of the f t

SECT... AL DEPARTMENT
19 NOV 1948
GOVT OF MYSORE

REVENUE DEPARTMENT
6189
9/12

THE MINISTER FOR
LOCAL SELF GOVERNMENT
No 2983
Date 11/12

Law Secy) 18/11

17) I think the new approach also is correct

Rev Secy WC) 8/12 8/12

9/12

Sd/-

12/12 Asst

18) The Law opinion furnished in p/paras 12-17 supra is submitted for perusal and orders

10/12

Rev Secy) 10/12

Minister) 19/12

L S S

20) By a perusal of the report made by the D e f 4(b) of the appeal petition there seems to be some doubt about the dates of the meetings of the Rl el during proceedings books of Rl el for the years 47 & 48 may be called for

18/12/48

19/12

19/12

Disqualification of two Mr Councillors
Chintamani Town Mcl
2882 / 5671
L L

21) Submit with a draft letter for approval
MMB
24/12

22) Issue
VS 31/12/48

To The Dy Commr, Kolar Dt
No L 7528 Dy 7-1-48
Requests him to forward the proceedings
book of the Chintamani Town Mcl for
1947-48
Asst
13/1

Letter No A5 C 67/48-49 Dy 26-1-49 from
the Dy Comm, Kolar Dt, forwarding the
Proceedings book of the Chintamani
Town Mcl for the year 1947-48 as called for

23) Submit with reference to Para 20 supra
MMB
30/1 Dy
31/1/49

31-1-49

OFFICE OF
THE MINISTER FOR
LOCAL SELF-GOVERNMENT
No 1394
Date 1/2/49

Minister (SS)
2
31/1/49
1/2/49

Roy on perusal of the proceedings book I am satisfied that these two members in question have not attended a series of meetings whether general meetings or otherwise as the ~~Act~~ meetings referred to in sec 12 (2)(a) means as defined in the act. ~~Hence~~ I agree with the opinion of the Law Secy

Rd 16/2
D 16/2/49

Dy Secy 17/2/49
Minister 8/2/49

5671 ml 58-48
L

sued with a draft letter for sgd

LLG
18/2 Pr 18.2.49

Issue
Sd
18/2/49

(H 57) To The Dy Commr, Kolar Dt
No L 9684 Dt 18-2-49
Issues instructions in the matter

To The Pdt, Town mcl Chintamani
(B No L 968 Dt 18-2-49
22/2 Issd a copy of the above

Mh 58-48-50 2882/mg

T 5 C 67/48-49
En Ole file & Note

OFFICE OF THE DEPUTY COMMISSIC
KOLAR DISTRICT 11/10

Dated 4th October 1948

To

The Secretary to Government,
Revenue Department,
Bangalore

8/10

SIR,

I have the honour to enclose herewith the records relating to the disqualification of Sri Channaveer bhadrappa and Srinivasamurthy from continuing unicipal Councillors of Chintamani Town Municip council together with a detailed note explaining the facts of the case and my opinion in the matter and request you to obtain orders of Government under Section 12(7) of the Town Municipalities ct very early and communicate the same to me

Yours faithfully,

Deputy Commissioner, Kolar

N O T E

The two petitioners Sri Channaveerabhadrappa and Srinivasamurthy of Chintamani Town have preferred petitio to this office against the direction given by the Preside Town Municipal Council, Chintamani Town Municipality, int mating them that their membership of the Municipal Council had ceased and have prayed that such direction was opposed to law and was quite illegal and that the same should be t aside

2 From the notices issued by the President, Town Municipal Council to these t o petitioners on 21-6-48 it is seen that they have been declared ineligible to continue as Municipal Councillors under Section 12 (2)(d) of the Town Municipal Act since they absented themselves continuously from the Municipal Council meetings from 29/12/47 without obtaining the leave of the Municipal Council The Presider has also reported to this office on 24-6-48 that these two councillors having absented themselves from the council ' meetings continuously for over four months, had lost their seats in the council at they were accordingly informed that their places have fallen vacant and that action would be taken to fill up the vacancies by holding a bye-election calendar of events was also drawn up for holding the bye-election, but the bye-election was however stayed in this office order dated 15-7-48 pending orders on the petitions

The counsel (Sri D Venkataramiah) on behalf of the petitioners as well as the counsel for the Municipal Council (Sri P V Subrahmanyam) were heard in support of their respective cases The President, Town Municipal Council, Chintamani produced the attendance register, the proceeding book and also the register giving intimation to the councillors of the dates of meetings It is seen from these books that the Municipal Council have held a meeting on 29/12/47 which has been attended by the petitioners Subsecuent to 29/12/47 the Municipal Council h ve held the following

meetins

provided that the Deputy Commissioner can give a clear ruling against such a direction by the Municipal Council Though, the petition is filed before me under Section 194 (1) of the Town Municipalities Act, this may not strictly come under that section because the direction of the Presiden cannot be construed as likely to cause any injury or annoyanc to the public or lead to a breach of the peace the most it could be called unlawful Hence I am recommending to Government stating the above facts of the case and also the arguments heard by me for the Government to give a final ruling in the matter

As stated above already, it is neither equitable nor justifiable to treat the petitioners as having become ineligible to continue as Municipal Councillors for having absented themselves from the meetings as stated in para 5

Polar
4th Octr 48

DEPUTY COMMISSIONER, POLAR DI

four consecutive months, without leave of the Municipal Council, he would become ineligible to continue as Municipal Councillor and his seat would become vacant In this case, it is quite clear that the Municipal Council have failed to hold their ordinary general meeting in every month The ordinary meetings have been held only in the months of March and May between the period from 20/12/47 and 17/6/48 Though the petitioners have absented themselves from five meetings including these two ordinary meetings, still I am afraid it is not equitable to apply Section 12 (2) (d) against them when the terms of that section do not seem to have been clearly fulfilled beyond any doubt or controversy There has been a default by the Municipal Council in their obligatory duties prescribed under Section 27 of the Municipal Act and in the face of such a default, on their part, it may not be justifiable to enforce a penal provision against the Municipal Councillors by stretching the scope of the Section and by putting a very general construction than what can be drawn strictly from the wording of the section The words "during four successive months" certainly do not mean the total period of four months as argued by the counsel for the Municipal Council I am inclined to think that by using the words "four successive months" it was intended that the member must absent himself from four meetings held in four successive or consecutive months In this case, meetings have not been held in four consecutive months and therefore the benefit, if at all, arising out of that default by the Municipal Council, must be given to the petitioners against whom the section is intended to be used

6 But in Section 12 (3) of the Municipal Act, it is provided that if any question or dispute arises whether a vacancy has arisen under this Section, the orders of the Government shall be final for the purpose of deciding such question or dispute and it does not seem to have been provided

No AS c 67/48-49

Encl: One Bill

OFFICE OF THE DEPUTY COMMISSIONER
KOLAR DISTRICT

Date, Kolar 26th January 1949

5671/ml
4/1

To

The Secretary to Government of Mysore
General Department, Bangalor

7 82

sent by Regd post

L7528 27-1-49

The Dy Comm, Kolar Dt.

With reference to your letter No AS C67/48-49 Dt 4-10-48 on regard to the disqualification of Sri Channaveerabhadrappa and Sri Srinivasamurthy from Continuing as Councillors of the Chintamani Town Council, I am directed to request you to obtain and forward the Proceedings said book of the Council for the year 1947-48

Yours faithfully
for
25/1/49
for secy to Govt
Rev Deptt

A5 c 67/48-49

Encl: One Bill

OFFICE OF THE DEPUTY COMMISSIONER
KOLAR DISTRICT

Date, Kolar 26th January 1949

5671/ml
4/1

To

The Secretary to Government of Mysore
General Department, Bangalore

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Yours faithfully
[illegible]
25/1/49
for Secy to Govt
Rev Deptt

A5 c 67/48-49.

OFFICE OF THE DEPUTY COMMISSIONER
KOLAR DISTRICT

Encl: One Bk.

Date, Kolar 26th January 1949

5671/mc
29/1

To

The Secretary to Government of Mysore,
General Department, Bangalore

2882

Subject

SIR

With reference to your letter No L 7528 dated 7th January 1949 requesting me to obtain and forward the proceedings Book of Chintamani Municipal Council for the year 1947-48, I have the honour to forward the same for reference The receipt of the proceedings Book may kindly be acknowledged

Yours faithfully

For Deputy Commissioner,
Kolar District

RNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

3 Copies 7684 Mh. 68-48-51

The Dy Commr, Kolar

Sir

With reference to the correspondence ending with your letter No A5 C67/48-49 dy 26-1-49 ~~on the matter of~~ regarding the disqualification of Sri Channaveera. Hadrappa and Srinivasamurthy to continue as members of the Chintamani Town Municipal Council I am directed to state that, from the record as seen that during the period from 16th January July 1948 to 17th June 48 ~~nearly~~ six meetings (both ordinary & special) have been held and the two councillors in question have attended more than half of them. Section 12(2)(d) of the Mysore Town Municipal Act 1933 does not lay down that the meetings referred to should be ordinary meetings only & the meetings should be ordinary

By order,

Asst General Secretary to Government

general meetings and that the meetings so have been held in every ~~Corporation~~ Consecutive month. It equally well applies to the Special meetings, also as the ~~Said~~ two Councillors have Voluntarily absented themselves from the meetings held during the period, it is clear that they have incurred ~~their~~ disability under section 12(1)(d) of the Act, to continue as ~~Councillors~~ members, of the Council and their places must be deemed to ~~be vacant~~ become vacant. I am therefore to state that the Chintamani Town may be instructed to take necessary action to fill up the above two ~~Vacancies~~ Vacancies immediately

(The Proceedings Book & the records accompany (Sent separately by Registered Post) Regd post slip No. 9685 Fee 5-12-0 dt 5-1-51 (Con 21-2-49)

Yours faithfully

for

Secy to Govt

Copy is forwarded for information to the Town Municipal Council Chintamani

By order

for Secy

Dy Secy

GL Dept/t

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No L 9684-1/ME 58-48-51 General and Revenue Secretariat,

Records sent on 21-2-49 by Registered Post

Dated Bangalore, 18-2-1949

FROM

The Secretary to the Government of
His Highness the Maharaja of Mysore
General Department.

To

The Deputy Commissioner
Kolar District

SIR,

With reference to the correspondence ending with your letter No AD.C 67/48-49 dated 26th January 1949 regarding the disqualification of Sri Channaveerabhadrappa and Srinivasamurthy to continue as members of the Chintamani Town Municipal Council, I am directed to state that, from the records, it is seen that during the period from 1st February 1948 to 17th June 1948, six meetings (both ordinary and special) have been held and the two Councillors in question have attended none of these Section 12(2)(d) of the Mysore Town Municipalities Act, 1933, does not ~~deem~~ lay down that the meetings referred to should be ordinary meetings only, that the meetings should be ordinary general meetings and that the meetings should have been held in every consecutive month. It applies equally well to the Special meetings of the Municipal Council also As the two Councillors have voluntarily absented themselves from the meetings held during the period, it is clear that they have incurred the disability under Section 12(2)(d) of the Act, to continue as members of the Council and their places must be deemed to have become vacant

I am therefore to requestthat the Chintamani Town Municipal Council may be instructed to take necessary action to fill up the above two vacancies immediately.

The Proceedings Book and the records accompary

Yours faithfully,

Sd/- Mir Safdar Hussain,
Secretary to Government,
General Department.

Memo No L 9685-1/ME 58-48-51 dt 18-2-49

Copy of the above is forwarded, with compliments, to the President, Town Municipal Council, Chintamani, for information

By Order,
General Secretary to Government